

# EXTENSIONS OF REMARKS

## OCEAN SHIPPING REFORM ACT OF 1995

**HON. JAMES L. OBERSTAR**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, February 28, 1995*

Mr. OBERSTAR. Mr. Speaker, today, I am introducing the Ocean Shipping Reform Act of 1995. There has been a great deal of discussion lately about the future of the Federal Maritime Commission and the Shipping Act of 1984. Some are suggesting that both the Federal Maritime Commission and the Shipping Act of 1984 be scrapped. I do not agree with that approach, but I do recognize that significant changes are needed at the Commission and in the Shipping Act of 1984. The bill I am introducing today accomplishes those changes.

The Shipping Act of 1984 sets out the legal framework that governs ocean liner cargo transportation. With a broad grant of antitrust immunity, conferences of oceanliner companies meet to establish common rates for the shipment of freight across the oceans. These rates are filed with the Federal Maritime Commission and made public. While broad grants of antitrust immunity are usually antithetical to the way the United States expects business to operate, I see no consensus within our ocean carrier and shipping industries, nor internationally, that immediate wholesale removal of antitrust immunity will bring the competitive benefits some expect. In fact, there was considerable testimony at the hearing held in the Subcommittee on Coast Guard and Maritime Transportation on February 2 that U.S. commercial interests could be harmed in doing so.

My approach is straightforward. Continue the present system of ocean carrier conferences with immunization from the antitrust laws. Within that framework, give shippers and conference carriers increased flexibility to enter into certain business arrangements not encumbered by conference agreements, procedures, or vetoes of other conference carriers.

Within the ocean shipping industry there is the concept of service contract which is a contract between a shipper and a carrier or a conference of carriers in which a minimum quantity of cargo over a fixed period of time is shipped at a certain rate and level of service. Typically, this translates into a large volume/long-term arrangement at a reduced rate below the filed tariff. These sorts of contracts are permitted and recognized in the law, but the carrier conferences are permitted and recognized in the law, but the carrier conferences are allowed to restrict and even prohibit their use. This bill would prohibit a conference or a conference carrier from limiting the ability of another member of the conference from entering into or performing under a service contract. This will provide shippers and conference carriers, that elect to, the opportunity to enter into arrangements outside of the conference.

Also in the carrier conference system, there is the concept of independent action. Under the Shipping Act of 1984, carriers can charge a rate different than the conference filed tariff, if notice is given to the conference and filed with the Federal Maritime Commission 10 days in advance of that independent action for a different rate. The bill would shorten that 10-day notice to 2 days. Again, this would provide shippers and carriers with a great deal more flexibility to enter into arrangements with much reduced interference by other conference members. By shortening the notice period, a rate different than the conference rate can be made effective before the other conference members have a lengthy period in which they could convince and persuade the independent action taker to not take the independent action.

The bill also provides a new declaration of policy. Section 2 of the Shipping Act of 1984 sets out the purposes of the act. Among the purposes are establishment of a nondiscriminatory regulatory process; provision of an efficient and economic ocean transportation system; and encouragement of the development of an economically sound and efficient U.S.-flag liner fleet. This bill would add a new declaration of policy—promotion of the growth and development of United States exports through competitive, nondiscriminatory, and efficient ocean transportation. There are some who believe that the Shipping Act of 1984 is too oriented toward the interests of the carriers at the expense of the shippers. This provision in the bill would give strong policy guidance to the Federal Maritime Commission that in administering the act that the interests of U.S. exporters should be just as paramount in its mind as the interests of the carriers.

The bill also directs the Secretary of Transportation to develop and implement a negotiation strategy to persuade foreign governments to divest themselves of ownership and control of ocean common carriers. Government ownership and control of oceanliner companies puts our carriers at a tremendous disadvantage in the international marketplace. While there is little we can do to force foreign governments to get out of the business of oceanliner shipping, it certainly should be the U.S. Government policy to bring that issue to the negotiating table when it is engaged in trade and commercial discussions with our trading partners. Over time, I am confident that progress can be made in this area to the benefit of U.S. carriers and the shipping public.

These changes to the Shipping Act of 1984 represent significant steps toward a more competitive and deregulated environment in the ocean transportation business, and I urge people to consider them in that regard.

Finally, the bill would make some significant reforms at the Federal Maritime Commission itself. Government agencies are downsizing and rightsizing across the board in the effort to reduce Government spending. The Federal

Maritime Commission needs to contribute to this effort just as all other Government agencies are doing. There has been discussion of outright eliminating the Commission all together. This would be unwise since it provides important benefits to the public. This bill would direct the Commission to reduce its employees by 15 percent over the next 2 fiscal years. The Commission is a relatively small agency with a relatively small budget—\$19 million, much of it offset with the collection of fees and fines. Despite its small size, it still needs to be a part of the overall effort to reinvent and streamline Government. Simply abolishing the Commission so that an agency's skin can be hung on the wall is not a proper way to carry out the public's need to have a smaller government. Steps need to be taken, but they need to make good public policy sense.

The bill also directs the Federal Maritime Commission to devote a greater proportion of its resources to protecting U.S. shippers and carriers against restrictive and unfair practices of foreign governments and foreign-flag carriers. U.S. interests are under a constant barrage by foreign interests trying to hinder their ability to do business. The Commission has done a good job of policing these practices, but I believe that the waterfront of abuses is so vast that if more resources were directed to this area, further progress could be realized in leveling the trade playing field. The bill directs that the Commission submit a plan to Congress to reorient its resources in this regard within 90 days of enactment of this legislation.

This proposed bill is just that—a proposal. There are issues that are not addressed in this bill, that may well need to be addressed. There are issues even within the context of the specific proposals upon which the bill is silent or needs further thought and deliberation before a more refined position is developed. An example would be in the service contract area. Should the terms of service contracts continue to be made public? In my bill as drafted they would be, but this is not a closed issue in my mind. Similarly, is there a need for phase-in of changes to the Shipping Act? Also, I do not address tariff filing in the bill, so as drafted, the current system would continue. But again, I believe there may well be ways that the public can learn about what is happening in the marketplace without a government based tariff filing system. I am open on this issue and others. There may also be other ways to craft the legislative language to accomplish the purposes of this bill, and I am open to suggestions here as well.

I very much look forward to working with Transportation and Infrastructure Committee Chairman SHUSTER and Coast Guard and Maritime Transportation Subcommittee Chairman COBLE, ranking Democratic Members NORMAN Y. MINETA and JAMES A. TRAFICANT, and other members of the committee to develop legislation on the Shipping Act and the Federal Maritime Commission.

---

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

---